

**STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION**

IN THE MATTER OF:

**PROPOSED AMENDMENTS TO
STANDARDS FOR INTERSTATE AND
INTRASTATE SURFACE WATERS,
20.6.4 NMAC**

No. WQCC 20-51 (R)

**TRIAD NATIONAL SECURITY, LLC
AND THE UNITED STATES DEPARTMENT OF ENERGY'S
SECOND NOTICE OF ERRATA TO LANL'S CLOSING ARGUMENT**

Triad National Security, LLC ("Triad") and the United States Department of Energy, National Nuclear Security Administration ("DOE") (collectively "LANL"), submits this Second Notice of Errata to its Closing Argument, filed on September 24, 2021, to correct four errors in Exhibit B (LANL's Proposed Statement of Reasons) and make corresponding changes to Exhibit A (LANL's Final Proposed Amendments to 20.6.4 NMAC).

1. Exhibit B, paragraph 85, page 30, footnote 5 should be corrected as follows to clarify that the limitation only applies to 20.6.4 NMAC and is not intended to modify 20.6.2 NMAC: "For purposes of 20.6.4 NMAC, toxic pollutants listed in 20.6.2.7 NMAC only apply to waters with a domestic water supply designated use, with the exception of the PFAS compounds listed above." Exhibit A, 20.6.4.7.T(2) NMAC, page 3, should be corrected to add the same language to footnote 2.

2. Exhibit B, paragraph 107, page 39, the last citation sentence should be corrected as follows: *See also Note to* 40 C.F.R. § 122.44(i)(1)(iv)~~(B)~~(A) ("Where no other EPA-approved methods exist, the Director should select a method consistent with 40 C.F.R. § 122.44(i)(1)(iv)(B).").

3. Exhibit B, paragraph 110, page 39, the LANL proposed rule language should be corrected to include “pollutant parameter” consistent with the language of 40 CFR § 122.44(i)(1)(iv), as follows:

110. Based on testimony and evidence presented at hearing, LANL recommends that 20.6.4.14(A) NMAC be further amended as follows:

40 CFR Part 136 approved methods shall be used to determine compliance with these standards and in Section 401 certifications under the federal Clean Water Act. In cases of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136, analyses shall be conducted according to a test procedure specified in the applicable permit or 401 certification. Where 40 CFR Part 136 approved methods are not required, sampling and analytical techniques shall conform with methods described in the following references unless otherwise specified by the commission pursuant to a petition to amend these standards:

Exhibit A, 20.6.4.14.A NMAC, page 8, should be corrected to add the same language.

4. Exhibit B, paragraph 111, page 40, the quotation marks and the brackets for the statement addressing 40 CFR § 122.44(i)(1)(iv) should be deleted and a footnote added to the citation following the third substantive sentence to explain Dr. Toll’s clarification of his written testimony:

111. ... 40 C.F.R. 122.44(i)(1)(iv) provides that each NPDES permit include requirements to monitor compliance with effluent limitations “[a]ccording to test procedures approved under Part 136 for the analyses of pollutants or pollutant parameters having approved methods under that part, and according to a test procedure specified in the permit for pollutants with no approved methods.” *Id.* at 6.¹

¹ At the public hearing, Dr. Toll clarified on cross-examination that “if this wasn’t a quote, I stand by the fact that it’s paraphrasing what’s in the regulations, 40 CFR 122.44.” Hrg. Tr. Vol. 3 at 788:1-3.

LANL requests that these corrections to Paragraphs 85, 107, 110, and 111 of Exhibit B to LANL’s Closing Argument and the corresponding sections of Exhibit A be made.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2021, a true and correct copy of the foregoing *Triad National Security, LLC and the United States Department of Energy's Second Notice of Errata to LANL's Closing Argument* was served via electronic mail to the following:

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